

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

50325-0864

Pursuant to 37 C.F.R. 1.8(a)(1)(ii), I hereby certify that this correspondence is being transmitted to the United States Patent & Trademark Office via the Office electronic filing system in accordance with 37 C.F.R. §§1.6(a)(4) and 1.8(a)(1)(i)(C) on the date indicated below.

On December 14, 2007Signature /StoychoDDraganoff#56181/

Typed or printed

name Stoycho D. Draganoff

Application Number

10/822,927

Filed

April 12, 2004

First Named Inventor

Eliot Lear

Art Unit

2136

Examiner

Carlton Johnson

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

/StoychoDDraganoff#56181/

Signature

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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December 14, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Confirmation No.: 4441

Eliot LEAR

Group Art Unit No.: 2136

Serial No.: 10/822,927

Examiner: JOHNSON, Carlton

Filed on: April 12, 2004

ATTACHMENT TO PRE-APPEAL BRIEF REQUEST FOR REVIEW

The final Office Action mailed October 15, 2007 contains clear errors and fails to show that the cited references describe or suggest all features of Claims 1, 3-21, 23-25, 27-29, and 31-47. Since a rejection under 35 U.S.C. § 102 that does not show prior disclosure of specific claimed features is clearly erroneous, the claims should be allowed for the reasons discussed below.

Claims 1, 21, 25, and 29 stand constructively rejected under 35 U.S.C. § 112, first paragraph. Claims 1, 3-21, 23-25, 27-29, and 31-47 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Bosler, U.S. Patent Application Publication No. US 2005/0010757 ("BOSLER"). For brevity, this attachment addresses in detail only the rejections of the independent Claims 1, 8, 18, 21, 25, and 29.

1. Rejection of Claims 1, 21, 25, and 29 under 35 U.S.C. § 112, first paragraph.

On page 2, the final Office Action objected under 35 U.S.C. § 132(a) to the claim amendment that was made by the Applicant in the response to previous Office Action. It is respectfully submitted that this objection is improper because: (1) the objected amendment was an amendment only to the claims; and (2) new matter objections under 35 U.S.C. § 132(a) are applicable only to amendments made to the specification but not the claims. (See MPEP § 706.03(o).) If alleged new matter is added only to a claim, an objection under 35 U.S.C. § 132(a) should not be made, but the claim should be rejected under 35 U.S.C. § 112, first paragraph. (See MPEP § 706.03(o), Examiner Note 3.) Therefore, for the purposes of this appeal, the Applicant is treating the above objection under 35 U.S.C. § 132(a) as a rejection of Claims 1, 21, 25, and 29 under 35 U.S.C. § 112, first paragraph.

The final Office Action asserts that the feature of Claims 1, 21, 25, and 29 of **"two or more principals** respectively associated with the two or more digital signatures **have collective authority to perform the configuration directives on the host network element"** was not

described in the application as originally filed. Further, the final Office Action asserts that the term **“home network”** was not included within the application as originally filed. These assertions are clear errors.

The feature of Claims 1, 21, 25, and 29 of **“two or more principals respectively associated with the two or more digital signatures have collective authority to perform the configuration directives on the host network element”** is described in the originally filed specification at least in the following paragraphs: [0030] (e.g., “...the principals in the signatures have a combined authority to make the configuration change”), [0035] (e.g., “... multi-level authorization model that uses multiple digital signatures”), [0060]-[0061] (e.g., “... two persons sign the configuration in series”, TABLE 4 – Example Multiple-Signed Configuration, in which “... an individual signed the configuration and then the individual’s manager signed the resultant”), [0069] (e.g., “... different individuals sign different portions of a configuration, and a senior manager signs both of the resultants with one or more separate signatures), [0071] (e.g., “... enabling authorization based on two or more authorized parties”), and [0074] (e.g., “[i]f the combined signatures have the requisite authority to make the change, then the configuration block is sent to the parser”). Further, originally filed FIG. 3 illustrates a configuration signed with multiple signatures, and the original Claim 2 features “verifying that the one or more digital signatures is valid and that **one or more principals** respectively associated with the digital signatures **have collective authority to perform the directives on the host**”, where one or more principals clearly include two or more such principals.

With respect to the term **“home network”**, it is respectfully submitted that Claims 1, 21, 25, and 29 do not include any such term. Claims 1, 21, 25, and 29 feature a **“host network element”**, which is a term included in the original Claims 1, 21, 25, and 29.

For the above reasons, it is respectfully submitted that the rejection of Claims 1, 21, 25, and 29 under 35 U.S.C. § 112, first paragraph is based on clear errors. Reversal of this rejection of Claims 1, 21, 25, and 29 is respectfully requested.

2. Rejection of Claims 1, 21, 25, and 29 under 35 U.S.C. § 102(e) over BOSLER.

Claims 1, 21, 25, and 29 comprise the feature of:

...;

verifying that two or more digital signatures, from the one or more digital signatures, are valid and **that two or more principals respectively associated with the two or more digital signatures have collective authority to perform the configuration directives on the host network element**;

....

The final Office Action asserts that BOSLER describes the above features of Claims 1, 21, 25, and 29 in paragraphs [0008] and [0078]. This assertion is a clear error because neither these paragraphs nor any other paragraphs of BOSLER describe or suggest the above feature of Claims 1, 21, 25, and 29.

In paragraph [0008], BOSLER describes a method for carrying out management communications between two management nodes of an IT network. Specifically, BOSLER describes that a first node is authenticated by using that node's private-public key pair. The authenticating step includes verifying the authenticity of the first node's public key by a public-key certificate which was automatically granted in a procedure requiring that a time interval between an initialization time of the first node and a certificate request time is within a maximum time interval for automatic certificate grant.

Similarly, in paragraph [0078] BOSLER describes a method of authenticated management communication by using digital signatures. Specifically, with respect to its Fig. 6, BOSLER describes that a first node produces a hash of a management message and encrypts it with the first node's private key. The first node then sends the message together with the encrypted hash to a second node. The second node verifies the authenticity of the first node's public key by means of an associated public-key certificate. If the authenticity of the public key is verified, the second node decrypts the received hash with the first node's public key. Thereafter, the second node produces another hash of the received message and compares it with the decrypted hash. If both hashes are equal, the second node verifies that the message originated from the first node.

Thus, at most BOSLER describes that a network node may use a digital signature included in a management message to verify the authenticity of the message sender. However, verifying the authenticity of a sender based on a digital signature included in a message as described in BOSLER is so different from the feature of Claims 1, 21, 25, and 29 of **verifying that two or more principals respectively associated with the two or more digital signatures have collective authority to perform the configuration directives on the host network element** that the rejection amounts to clear error.

Further, neither the paragraphs cited above nor any other paragraphs of BOSLER describe or suggest that a management message may be signed with **two or more** digital signatures. Since BOSLER describes using a digital signature for the purpose of **authenticating** a sender node, the sender node does not need to send more than one signature in order to

authenticate itself with the receiving node. In fact, BOSLER does not describe or suggest that a node may be assigned more than one private key, which means that in BOSLER a node CANNOT sign a management message with more than one digital signature. In contrast, Claims 1, 21, 25, and 29 feature verifying that **two or more digital signatures** included in a received configuration information are valid and that **two or more principals** respectively associated with the two or more digital signatures **have collective authority** to perform configuration directives on a network element.

Thus, BOSLER is clearly missing the claimed features and this is not a matter of “interpreting” the claim. For the foregoing reasons, the rejection of Claims 1, 21, 25, and 29 under 35 U.S.C. § 102(e) over BOSLER is based on clear errors. Reversal of this rejection of Claims 1, 21, 25, and 29 is respectfully requested.

3. Rejection of Claims 8 and 18 under 35 U.S.C. § 102(e) over BOSLER.

Claim 8 comprises the features of:

...;

receiving **configuration control information that includes a time period during which a valid digital signature is required for applying one or more particular configuration directives;**

...;

only when the date-time value is within the time period and the one or more configuration directives have not been previously received during the time period, attempting to verify the one or more digital signatures based on the trust information, and applying the configuration directives to a network element only when the one or more digital signatures are verified successfully;

....

Claim 18 comprises similar features. The final Office Action asserts that BOSLER describes the above features of Claims 8 and 18 in paragraphs [0071], [0073], and [0058]. This assertion is a clear error because neither these paragraphs nor any other paragraphs of BOSLER describe or suggest the above features of Claims 8 and 18.

In paragraph [0071], BOSLER describes a time interval within which a node must request a public key certificate. Significantly, a certificate server would grant a public key certificate to a network node **only if** the node requests the certificate within a particular time interval **after** a management agent is initialized/installed on the node. (See also at least BOSLER, paragraph [0010]; paragraph [0073], lines 17-22.) Thus, the time interval described by BOSLER is used to determine whether or not a node would be granted a public key certificate.

In contrast, Claims 8 and 18 include the feature of receiving configuration control information that includes **a time period** during which a valid digital signature is required for **applying one or more particular configuration directives**. A time period during which a valid signature is required **for applying a configuration directive** on a network element (as featured in Claims 8 and 18) is completely different from a time interval used to determine whether or not a node would be granted a public key certificate (as featured in BOSLER).

Further, in paragraph [0058] BOSLER describes that a first node and a second node may establish a secure session by exchanging a management message that may be authenticated by a digital signature. However, BOSLER does not describe or suggest that a management message sent by the first node includes any time interval. In fact, there is absolutely nothing in BOSLER that describes or suggests that management messages exchanged between nodes may include any time intervals indicating that configuration operations specified in the messages can be applied on nodes only during these time intervals. In contrast, the time period featured in Claims 8 and 18 is used to determine whether verification of one or more digital signatures would be attempted and whether one or more configuration directives would be applied to a network element.

For the foregoing reasons, the rejection of Claims 8 and 18 under 35 U.S.C. § 102(e) over BOSLER is based on clear errors. Reversal of this rejection of Claims 8 and 18 is respectfully requested. Further, since each of dependent Claims 3-7, 9-17, 19-20, 23-24, 27-28, and 31-47 depends directly or indirectly from one of independent Claims 1, 8, 18, 21, 25, and 29, reconsideration and reversal of the rejection of all dependent claims is hereby respectfully requested.

Respectfully submitted,

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